

REPORT TO THE MINNESOTA LEGISLATURE

January 2001

Joint Domestic Abuse Prosecution Unit



*A prosecution initiative focusing on
domestic assaults where children are present*

This report was prepared by the Ramsey County Attorney's Office and the Saint Paul City Attorney's Office. For additional copies or further information, please contact:

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The picture on the cover of this report was created by a child participating in the Children's Program of the Domestic Abuse Project in Minneapolis.

Joint Domestic Abuse Prosecution Unit

*An initiative of the
Ramsey County Attorney's Office and the
Saint Paul City Attorney's Office*

Report to the Minnesota Legislature
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Introduction

With support and funding from the 2000 Minnesota Legislature, Ramsey County Attorney Susan Gaertner and Saint Paul City Attorney Clayton M. Robinson, Jr. have initiated an innovative partnership to help break the cycle of domestic violence. On September 18, 2000, after extensive planning, the County and City Attorneys' offices launched the Joint Domestic Abuse Prosecution Unit, which focuses on domestic assault cases where children are present. This unit was established as a pilot project. Results will be made available to other jurisdictions that want to create similar prosecution programs.

"Domestic violence has a tremendous impact on children who witness it. The Joint Domestic Abuse Prosecution Unit connects victims and their children with community agencies. These agencies can assist victims in overcoming multiple barriers they may face."

– Saint Paul Domestic Abuse Intervention Project

Studies document the traumatic effects of domestic violence on children, even when they are not the direct targets. Children who witness domestic violence often develop emotional, psychological and behavioral problems. They also are more likely to become abusers or victims as adults. The Joint Domestic Abuse Prosecution Unit addresses the needs of battered individuals and their

children, connecting them with needed services while seeking increased accountability for offenders.

The three attorneys in the new unit review all levels of domestic assault – from misdemeanors to felonies. A victim witness advocate works with victims and their children, providing support throughout the prosecution process and coordinating referrals to appropriate community-based service and advocacy agencies.

The Joint Domestic Abuse Prosecution Unit is still very new. Its early experience, however, is positive. Prosecutors in the unit are getting good results in court, and a significant number of cases have been upgraded from misdemeanors to gross misdemeanors or felonies. Adult and child victims are receiving assistance that was not available in the past. And the unit is getting strong support from its partners in the criminal justice system and among community-based agencies.

This progress report documents the unit's experience over three months — from its inception on September 18, 2000, through December 19, 2000. The next report will be submitted to the Minnesota Legislature by January 15, 2002.

Key Findings

- ◆ The Joint Domestic Abuse Prosecution Unit prosecuted 83 cases in its first three months of operation. Thirty-five cases resulted in guilty pleas, none was pled down to a lesser charge, and charges in seven cases were enhanced to felonies. (Dispositions of remaining cases are pending.)
- ◆ In the first three months of operation, the unit's victim/witness advocate was able to refer victims and/or children in 56 cases to community-based advocacy or counseling services. These referrals constitute a key prevention strategy of the unit. The victim/witness advocate makes early, personal and frequent contact with victims and their children.
- ◆ Saint Paul Police now present reports on domestic assault cases involving children to this unified prosecution team. This eliminates the fragmentation of duties between the County and City Attorneys' offices in domestic assault cases where children are present. This, in turn, ensures that cases are charged at the appropriate severity level without regard to jurisdiction.
- ◆ The unit is charging domestic assault cases at the highest possible levels. Thus, defendants are facing more severe consequences, including enhanced incarceration and probation periods. This provides immediate protection for victims and their children.
- ◆ Most victims have agreed to cooperate with the prosecution. Victims are now contacted earlier in the prosecution process and have responded favorably to advocate support. Without such support, victims often are reluctant to cooperate with the prosecution because of safety concerns and emotional distress.
- ◆ Key stakeholders — representatives of the police, courts, probation, victim advocates and the two prosecution agencies — overwhelmingly have expressed satisfaction with the unit's implementation process. In interviews, they noted that the increased resources have led to more efficient communication and processing of cases. As a result, perpetrators of domestic abuse involving children are being punished appropriately and are not slipping through cracks in the criminal justice system.
- ◆ The Saint Paul Police Department, working with the Joint Domestic Abuse Prosecution Unit, has changed its reporting practices regarding domestic violence calls. Police reports now include specific information about children at the scene of domestic assaults, including statements from children, their "excited utterances" (spontaneous comments that may be useable in court), their relationship to the defendant and their ages.

The Problem Being Addressed

Domestic assault is a very serious crime and a huge problem in our community. Saint Paul alone had nearly 15,000 police calls for domestic violence in 1999. These offenses become even more serious when children are present. Children often are victimized as witnesses to domestic violence and sometimes as direct targets. It is estimated that children are present in 70 percent of the domestic abuse cases prosecuted in Saint Paul. Too frequently, these children are the invisible victims of domestic violence. They often are not identified as being at risk in domestic assault cases. Thus, critical opportunities to intervene in their lives are missed.

"Please hurry...please. He won't let her go. He's strangling her and stuff. She's scared, she's crying. Just kick the door in because he's threatening to kill her."

— Transcript of a 911 emergency call from a juvenile boy who had jumped from a second-story window to call police from a neighbor's house

Children who witness domestic violence often have difficulty escaping the emotional scars. Boys tends to exhibit externalized symptoms such as hostility and aggression, while girls show evidence of internalized problems such as depression and sleeping difficulty (Jeffrey Edleson, Ph.D.,

University of Minnesota, 1995). Depression, hopelessness and other forms of emotional distress in teenagers are strongly associated with exposure to domestic violence in the home (ABA Report on the Impact of Domestic Violence on Children, 1994).

In many cases, children in violent homes become the direct targets. In a 1999 study, Dr. Edleson found a 30 to 60 percent overlap between child maltreatment and woman battering in families experiencing domestic violence. In an earlier survey of 6,000 American families, he discovered that 50 percent

of the men who frequently assaulted their wives also abused their children. Children in homes where domestic violence occurs are physically or sexually abused or seriously neglected at a rate 15 times higher than the national average (Understanding Domestic Violence Fact Sheets, 1989). The consequences of such abuse are devastating. A New York study showed that child abuse doubles the risk that a boy will have convictions for violent crimes as an adult.

Witnessing violence in the home and experiencing it oneself serve as a "double whammy" for child victims. Attorney General Janet Reno addressed this issue in the American Bar Association Report on the Impact of Domestic Violence on Children (1994):

"It is imperative that we really focus on the whole issue of domestic violence and family violence in its larger context. On many occasions, the child who sees his mother being beaten accepts violence as a way of life."

The Joint Domestic Abuse Prosecution Unit responds to the mounting research and concern regarding the impact of domestic violence on children. It seeks to ensure that the overlapping needs of child and adult victims are met. In doing this, the unit is determined to intervene in the cycle of violence that grips so many families in our community.

Organization

The Joint Domestic Abuse Prosecution Unit unifies a fragmented system for prosecuting domestic assaults involving children.

Historically, the responsibility for prosecuting domestic assaults involving children had been split between the Saint Paul City Attorney's Office and the Ramsey County Attorney's Office. The City Attorney's Office prosecuted all misdemeanor and gross misdemeanor cases of domestic violence against adults. The County Attorney's Office handled the felony-level domestic assaults, as well as child maltreatment and child protection cases. This division of jurisdiction sometimes limited both offices' ability to effectively prosecute domestic violence cases while considering the interests of both adult and child victims.

"He was pulling mommy's hair. I was scared. He was dragging mommy. I heard some glass. It was the lamp. He was yelling. He was going to beat me..."

– 5-year-old child witness, from a statement to police

The new Joint Domestic Abuse Prosecution Unit combines all prosecution functions in adult domestic violence cases where children are present at the time of the abuse. Prosecutors in the unit review all levels of domestic assault – from misdemeanors to felonies. The attorneys are cross-deputized as assistant county attorneys and assistant city attorneys. Thus, police present reports on domestic assault cases involving children to a unified prosecution team. This ensures that cases are charged at the appropriate severity level without regard to jurisdictional responsibilities.

The unit is staffed by three attorneys and a victim/witness advocate. Two of the attorneys and the victim/witness advocate are funded by the legislative appropriation. A third attorney is provided by the Saint Paul City Attorney's Office. The Ramsey County Attorney's Office has provided support staff from existing resources. The Saint Paul City Attorney's Office also provides support and coordination with its domestic violence prosecution unit. The new unit reports jointly to Ramsey County Attorney Susan Gaertner and Saint Paul City Attorney Clayton M. Robinson, Jr.

With the creation of the Joint Domestic Abuse Prosecution Unit, the County Attorney's Office and the City Attorney's Office have eliminated the fragmentation of responsibilities. This allows the offices to combine their expertise, operate at maximum efficiency and intervene effectively in the lives of perpetrators, victims and their children.

Progress Toward Goals

The goals of the Joint Domestic Abuse Prosecution Unit, as stated in Minnesota Session Laws 2000, Chapter 488, are to:

1. Recognize children as both victims and witnesses in domestic abuse situations;
2. Recognize and respect the interests of children in the prosecution of domestic abuse; and
3. Reduce the exposure to domestic violence for both adult and child victims.

The Joint Domestic Abuse Prosecution Unit has made the following progress toward its goals:

Goal No. 1 – Recognize children as both victims and witnesses in domestic abuse situations.

Progress:

“The real payoff of this new unit is down the road. Our department routinely sees family violence handed down from generation to generation. By holding these perpetrators highly accountable, we may see fewer of their children in the future.”

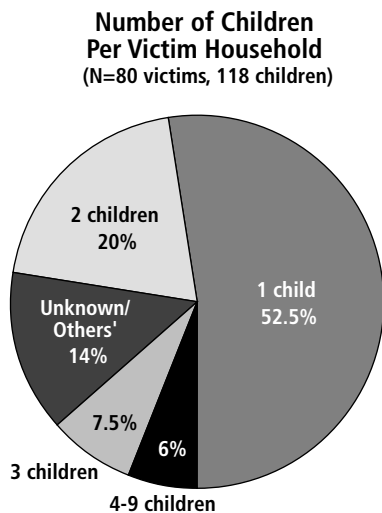
– Commander John Vomastek
Saint Paul Police Department

1. The Saint Paul Police Department, working in collaboration with the new unit, has changed its reporting practices regarding domestic violence calls. Police reports now include specific information about children at the scene of domestic assaults, including statements from children, their “excited utterances” (spontaneous comments that may be useable in court), their relationship to the defendant and their ages, whenever possible.
2. In order to support the changes in police reporting practices, the staff of the Joint Domestic Abuse Prosecution Unit assisted in drafting a police roll call bulletin about these new practices. The staff also attended Saint Paul Police roll calls, covering each shift throughout the city. They provided training on the importance of documenting the presence and circumstances of children at the scene of domestic assaults. It was emphasized that this information is crucial to building strong cases for prosecution.
3. In 2001, Saint Paul Police will begin using an electronic reporting form that includes specific fields of information regarding children at the scene of domestic calls.

Progress Toward Goals

Goal No. 2 – Recognize and respect the interests of children in the prosecution of domestic abuse.

Progress:



1. The victim/witness advocate has contacted all of the victims involved in the unit's cases (all of which involved children). In the first three months of the unit's operation, the victims and/or children in 56 cases were able to be referred to advocacy, counseling or other services. These referrals constitute a key prevention strategy of the unit. By intervening with the victims and connecting them with services, the unit helps victims overcome the short-term and long-term impact of family violence. In the past, because of a lack of resources, no advocate was available to make these critical referrals in the vast majority of domestic abuse cases.
2. The Joint Domestic Abuse Prosecution Unit has developed specific screening criteria to determine which cases should be reviewed by the Joint Domestic Abuse Prosecution Unit. These criteria help to ensure that the children who witness domestic violence benefit from the unit's services. (See attached criteria.)

Goal No. 3 – Reduce the exposure to domestic violence for both adult and child victims.

Progress:

1. The Joint Domestic Abuse Prosecution Unit is charging domestic assault cases at the highest possible levels. Thus, defendants are facing more severe consequences, including enhanced incarceration and probation periods. This provides immediate protection and increased safety for victims and their children.
2. The unit was developed in collaboration with key stakeholders to address the goal of reducing exposure to domestic violence. The unit joins many partners in the criminal justice system and in the broader community who are dedicated to achieving this goal. Successful initial implementation was seen as critical to the unit's ability to address this goal. Thus, as part of the preliminary evaluation report, the evaluators interviewed 12 key stakeholders to determine the success of the unit's implementation and current operations.

All interviewees overwhelmingly expressed satisfaction with the unit's implementation process. Key points highlighted included:

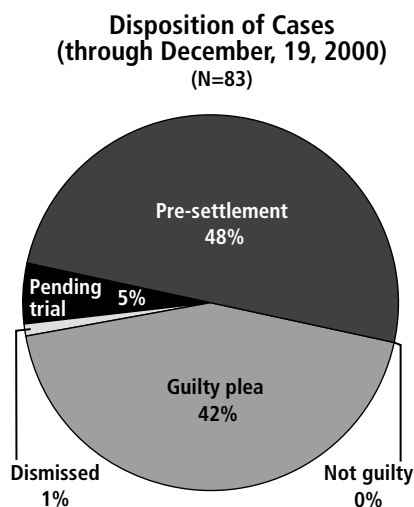
- ♦ The advantages of having cross-deputized attorneys who could prosecute both misdemeanors and felonies (more efficient), and
- ♦ Increased resources allowing attorneys to carry a lower caseload and a full-time victim/witness advocate to be assigned to the unit.

Progress Toward Goals

These benefits are believed to have led to more efficient communication and processing of cases. As a result, perpetrators of domestic abuse involving children are being punished appropriately and are not being allowed to slip through cracks in the criminal justice system.

(A detailed report on the stakeholder interviews is included in the accompanying Preliminary Evaluation Report by the Institute on Criminal Justice.)

3. As of December 19, 2000, the Joint Domestic Abuse Prosecution Unit had prosecuted 83 cases. Of these cases:



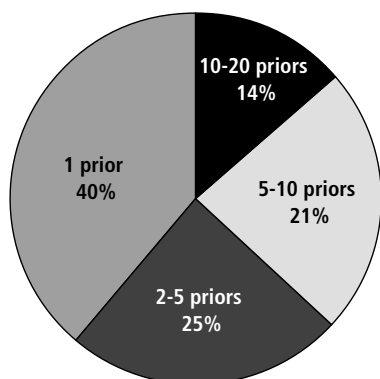
- ♦ Only one has been dismissed (pursuant to an agreement with a defendant to plead guilty to two other charges.)
- ♦ Thirty-five cases have resulted in guilty pleas.
- ♦ None has been pled down to a lesser charge.
- ♦ Charges in seven cases have been enhanced to felonies, usually due to more information being gathered on the criminal history of the defendant.
- ♦ None of the unit's cases had gone to trial as of December 19, 2000.



These 83 cases represented 80 different defendants and 80 different victims. (Two victim-defendant pairs had multiple cases on file.) All defendants were males, and all adult victims were female.

Prior criminal history was known for 58 of the 80 individuals as of December 19, 2000. Of these 58 individuals:

**Number of Prior Charges
Per Defendant with Priors**
(N=33)(Average charges per defendant=4.15)



- ♦ 33 (57%) had at least one prior domestic abuse charge, and
- ♦ 25 (43%) had no known prior history of domestic abuse charges.
- ♦ The number of prior charges for these repeat offenders ranged from 1 to 20, with a mean of four incidents per defendant.
- ♦ Prior charges included felonies, misdemeanors and gross misdemeanors.

Sixty-nine of the 80 adult female victims have their own children living with them. (Children who were present during assaults in the 11 other cases included the victims' relatives or neighbors or the defendants' children. In all cases, the children interacted regularly with the victims.) Numbers of children range from 1 to 9, with a mean of 1.48 children per family. All of the victims have been contacted by the victim/witness advocate, either by letter, telephone call or face-to-face meeting (through a home visit or meeting in the Courthouse.)

Progress Toward Goals

The encouraging progress described above is attributed, in part, to enhanced resources of the new unit, including:

- ♦ A lower caseload per prosecutor compared with the Saint Paul City Attorney's misdemeanor caseload (where the majority of domestic assault cases are handled).

The reduced caseload allows the unit's attorneys to devote more attention and resources to each case, including more investigation and communication with other agencies such as the Saint Paul Police Department, Ramsey County Community Corrections and community-based service providers. Because domestic assault is an enhanceable offense (meaning that prior convictions can contribute to higher charges and, therefore, stiffer sentences in subsequent offenses), this investigation is critical to appropriate charging. Many domestic assault defendants have at least one prior conviction for domestic assault. Unit attorneys also can consistently follow through on cases – handling all aspects of a case from charging and prosecution to sentencing and probation violation hearings.

- ♦ The assignment of a full-time victim/witness advocate to the unit.

The victim/witness advocate makes early, personal and frequent contact with victims and their children. Because he only handles cases for this unit, the advocate has developed knowledge and proficiency regarding this particular type of offense and prosecution process. He also has the benefit of a reduced caseload, compared with other victim/witness advocates in the Ramsey County Attorney's Office.

Victims, now contacted earlier in the prosecution process, have responded favorably to advocate support and have benefited from referrals to community-based service and advocacy agencies. Without such support, victims often are reluctant to cooperate with the prosecution because of safety concerns and emotional distress.

"By focusing attention on domestic abuse cases involving children, the County Attorney and City Attorney are addressing a major societal problem. This is a very welcome experiment."

– Chief Judge Lawrence D. Cohen
Ramsey County District Court

In addition to referring victims to services, the victim/witness advocate has engaged interpreters, arranged transportation and secured emergency funds for domestic assault victims and their children. The advocate also has made many home visits to victims. These visits overcome yet another challenge facing many domestic abuse victims – namely, that their phones have been disabled by their attackers.

Further, the victim/witness advocate has built strong relationships between the Joint Domestic Abuse Prosecution Unit and community-based service providers. These relationships have fostered improved communication and enhanced services to victims of domestic abuse. This integration of criminal justice and community-based agencies did not previously exist in the provision of services to these victims.

Evaluation

The Institute on Criminal Justice of the University of Minnesota Law School has been contracted to provide evaluation and analysis of the work of the Joint Domestic Abuse Prosecution Unit. The Preliminary Evaluation Report on the Implementation Process is attached to this report. The Institute will conduct a detailed evaluation over a three-year period.

"This is an exciting undertaking that merits a close review because of its policy implications and value to other jurisdictions that might be considering a similar endeavor. It will be very interesting to see the impact on case processing as well as victims, children in particular."

— Janet K. Wiig, Executive Director
Institute on Criminal Justice

Together, the Institute and unit staff have identified measurable goals and desired outcomes that will directly reflect the progress of the Joint Domestic Abuse Prosecution Unit. They include the following:

Prosecution Goals and Desired Outcomes

- ◆ Increased consequences for offenders, including:
 - Increased conviction rates for domestic assault
 - Increased jail time served
 - Increased length of probation
 - Increased domestic abuse treatment ordered by court
 - Reduced number of pleas to lesser offenses
- ◆ Increased severity levels in domestic assault charging, where appropriate
- ◆ Increased consequences for probation violations

Victim/Children Desired Outcomes

- ◆ Increased safety and support for victims/children
- ◆ Increased victim cooperation with prosecution
- ◆ Increased victim satisfaction with criminal justice system
- ◆ Increased support service utilization by victims/children

System Desired Outcomes

- ◆ Enhanced criminal justice system response to domestic assault cases where children are present
- ◆ Enhanced police reporting and investigation regarding children at the scene of domestic violence incidents

Prosecution/Implementation Desired Outcomes

- ◆ Successful implementation of the Joint Domestic Abuse Prosecution Unit
- ◆ Consistent referral of cases meeting criteria to the Joint Domestic Abuse Prosecution Unit

Specific measurements have been developed for each of these outcomes. The Evaluation Plan is also included as an attachment to this report. The plan was developed by the Institute on Criminal Justice with input from the Joint Domestic Abuse Prosecution Unit, Ramsey County Attorney and Saint Paul City Attorney. Preliminary results will be shared with the Minnesota Legislature as part of the next report to be submitted by January 2002.

Summary of Evaluation Findings

Following is a summary of findings contained in the Preliminary Evaluation Report on the Implementation Process for the Joint Domestic Abuse Prosecution Unit:

- ♦ In interviews with the evaluator, **all stakeholders felt appropriately involved** in the development of the Joint Domestic Abuse Prosecution Unit. All noted that representatives of the unit or the County Attorney's Office had either consulted with them regarding the development of the unit or had explained the concept before the unit's inception. Stakeholders also felt that the unit's operation is consistent with the model conceived of prior to its implementation.
- ♦ **Interviewees overwhelmingly highlighted positive changes** in the way domestic violence cases are handled within the unit. Interview subjects within the City and County Attorneys' offices emphasized improved case handling, while those in other agencies highlighted the impact of the advocacy services, increased communication, and the benefits of focusing on cases where children are involved.
- ♦ Increased resources to the unit and the increased efficiency of having a vertical charging unit (i.e., where the attorney who charges the case also tries the case and generally sees it through disposition) with cross-deputized attorneys were highlighted as contributing toward **more efficient case processing and handling**.
- ♦ **The cross-deputization of assistant city and county attorneys within the unit has enabled cases to be charged with more efficiency**, making it easier to correct or add charges and avoid jurisdictional questions between the city and county offices. Similarly, in more serious cases where the charging officer initially has not recognized the case as a felony, the case can be subsequently charged as a felony (again, without needing to be transferred between offices).
- ♦ Interviewees observed that cases are now being charged as "what they are" rather than being charged down because of a lack of resources. The unit now has sufficient resources to conduct further investigation into the prior record of the defendant for purposes of enhancing the charge or to request further police follow-up. Further, **no cases to date have been reduced in plea agreements to disorderly conduct charges**.
- ♦ **The increased resources allow for attorneys in the unit to be present at probation violation hearings**, enabling them to advocate for stiffer probation violation penalties. Previously, due to heavy caseloads and lack of specialization within the trial unit, any attorney who was available would attend — often one who was unfamiliar with the case.

Summary of Evaluation Findings

- ♦ Interviewees who were willing to give an opinion felt that cases are being disposed of more quickly, and that because of the single charging unit, **the unit's cases may be resulting in enhanced sentences.**
- ♦ Some victim advocates expressed concern that there was the potential for unnecessary and potentially unpleasant contact between victims and defendants in the Courthouse during settlement conferences, as both may meet on the same floor. (In other domestic abuse cases, court advocates meet with their clients on a different floor than where cases are heard.) Despite this concern, **all advocates interviewed felt that the new prosecution unit would be beneficial for their clients** and that earlier victim contact with the unit's victim/witness advocate would help adult and child victims and witnesses.
- ♦ A significant benefit highlighted by all those interviewed, regardless of their roles in relation to the unit, was **a significant increase in communication between agencies with information about domestic violence perpetrators.**
- ♦ The police representative interviewed expressed the sense that increased communication (and fewer perpetrators "slipping through the cracks") would lead to **less police frustration in dealing with repeat domestic violence incidents** – those incidents where police are called time and again to the same location for domestic violence incidents where children are involved. Further, **police reports are being changed as a result of the unit** and its screening criteria to specifically note the presence or absence of children in domestic violence incidents.
- ♦ Those within the County and City Attorneys' offices noted that more frequent and formalized communication between the City and County Attorneys' offices has allowed more information to be exchanged on domestic violence cases, resulting in **a higher level of cooperation and collaboration.**
- ♦ Prosecuting all domestic violence cases with young children involved within one unit is **facilitating the tracking of high-risk offenders** (who previously may have been alternately prosecuted within City or County Attorney's office).
- ♦ One advocacy agency expressed concern that the development of a joint prosecution unit to deal specifically with domestic abuse cases involving children might result in more scrutiny of female victims' care of their children (and subsequent reporting of the domestic abuse to Child Protective Services). Despite this concern, the same advocates stated that they had no evidence such a concern would be played out.

Screening Criteria

Criteria for Presenting a Case to the Joint Domestic Abuse Prosecution Unit

Criteria	Comments/Considerations
	All cases involve domestic abuse where children are present. A child is present if he/she is in the same dwelling as the abuse. If the abuse occurs at a place other than a dwelling, then a child is present if they were in a position to see or hear the abuse.
All domestic violence felonies where children are present	(except murders)
All domestic violence gross misdemeanors where children are present	(except violations of orders for protection, interference with 911 call)
Domestic violence misdemeanors where children are present	<p>The case should go to the Joint Domestic Abuse Prosecution Unit if any of these factors exist:</p> <ul style="list-style-type: none">• Children are an "active" presence. This means that they were a part of the incident as a participant. For example, they made a 911 call, they were used as a shield, they were being held by the victim at the time of the assault, or they tried to stop the perpetrator.• Children present are 10 years old or younger• There is an open child protection case

**Ramsey County and St. Paul City Attorneys
Joint Domestic Abuse Prosecution Unit
Evaluation Proposal**

- A. Process Evaluation (goal of evaluating the effectiveness of implementation with key stakeholders).
- i. Satisfaction with JPU development and services by key stakeholders as determined by surveys and focus groups.
 - Conduct three focus groups with randomly selected participants within the JPU (e.g., attorneys, advocates, judges) (Months 1-4)
 - Develop satisfaction surveys for victims
 - Organize, analyze and summarize survey and focus group data (Months 4-15)¹
 - ii. Develop a tracking system for referrals into the JPU. (This is necessary in order to make sure that all cases eligible for referral to JPU are actually being referred. It is also critical for outcome evaluation—i.e. to make sure that any results aren't tainted by circumstances beyond JPU's control, i.e. problems with referral).
 - Review all police domestic violence reports generated from 9/00 onwards using a blind rater to gauge whether children were involved to the extent of fulfilling criteria for referral to the JPU. (Months 1-33)
 - Analyze reports to compare cases ultimately referred with those not referred to determine reasons for lack of referral. Cases will be compared on several variables (e.g. type of incident, age of children, use of weapon). (Months 5-33)²

¹ The results of the semi-structured interview data will be available for the interim process evaluation report in January 2001.

² It is understood that in January 2001, police reporting will become computerized, enabling easier tracking of cases involving children. Hence, to avoid confounding due to newer reporting methods, analysis of reports will begin after 2001.